

SENATE BILL No. 290

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Unemployment benefits. Requires the department of workforce development to make a determination of eligibility for unemployment benefits and make payment or give notice of a negative determination not later than three weeks after the claim for benefits is filed, with certain exceptions. Requires the department to collect certain periodic statistical information concerning the payment of unemployment claims and provide a report to the legislative council. Establishes an alternative method of determining the base period for benefits. Provides that an individual who is otherwise eligible for benefits is not ineligible because the individual is: (1) a part-time worker; or (2) available for or seeking part-time work as long as the part-time work is for at least 20 hours per week. Provides that under certain circumstances, the definition of "wages" for unemployment compensation does not include \$9,000 paid in a calendar year to an individual by an employer or the employer's predecessor. Repeals the one week waiting period for payment of benefits. Makes conforming changes.

Effective: Upon passage; July 1, 2006.

Simpson

January 9, 2006, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 290

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-2-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. **(a) Except as**
3 **provided in subsection (b), "base period" means the first four (4)**
4 **of the last five (5) completed calendar quarters immediately preceding the**
5 **first day of an individual's benefit period. ~~Provided, however, That~~**

6 **(b) If an individual does not establish a benefit period because**
7 **the wage requirements of IC 22-4-14-5 are not met when**
8 **determining the base period under subsection (a), the base period**
9 **means the most recent four (4) completed calendar quarters**
10 **immediately preceding the first day of an individual's benefit**
11 **period.**

12 **(c) For a claim computed in accordance with ~~IC 1971, 22-4-22,~~**
13 **IC 22-4-22-1, the base period shall be the base period as outlined in**
14 **the paying state's law.**

15 SECTION 2. IC 22-4-2-12.5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12.5. Notwithstanding
17 section 12 of this chapter, for an individual who during the "base

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period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the **first most recent** four (4) ~~of the last five (5)~~ completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

SECTION 2. IC 22-4-4-2, AS AMENDED BY P.L.98-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars (\$7,000), has been paid in a calendar year to an individual by an employer or his the employer's predecessor with respect to employment during any calendar year subsequent to December 31, 1982, and before January 1, 2007; or

(B) nine thousand dollars (\$9,000) has been paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year subsequent to December 31, 2006;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However,

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nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for **it the employer** (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

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(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 3. IC 22-4-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this section, the term "part-time worker" means an individual whose normal work is in an occupation in which ~~his~~ **the individual's** services are not required for the customary scheduled full-time hours prevailing in the establishment in which ~~he~~ **the individual** is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which ~~he~~ **the individual** is employed.

(b) The board may prescribe rules applicable to part-time workers for determining their weekly benefit amount and the wage credits required to qualify such individuals for benefits. Such rules shall, with respect to such individuals, supersede any inconsistent provisions of this article; but, so far as practicable, shall secure results reasonably equivalent to those provided in the analogous provisions of this article.

(b) An individual who is otherwise eligible for benefits may not be considered ineligible because the individual was a part-time worker or because the individual is available for or is seeking part-time work as long as the part-time work is for at least twenty (20) hours per week.

SECTION 4. IC 22-4-17-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.3. Unless subject to a shorter period by the United States Department of Labor concerning the payment of benefits, the department shall make a determination of the claimant's eligibility under section 2(d) of this chapter and:

(1) if the department makes a positive determination, pay benefits; or

(2) if the department makes a negative determination or if a hearing has been requested under section 2(e) of this chapter, send notice of the determination or hearing;

to the claimant not later than three (3) weeks after the date of the filing of the initial or additional claim under section 2(a) of this

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chapter.

SECTION 5. IC 22-4-18-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.3. (a) Not later than the fifteenth day of the month following a calendar quarter, the department shall determine:

(1) the number of:

(A) initial; and

(B) additional;

claims filed in the prior calendar quarter;

(2) of the total number of filed initial and additional claims determined under subdivision (1), the number resulting in positive determinations of insured worker status;

(3) the number of claims from insured workers entitled to payments from the fund, excluding those claims for which a request for a hearing has been filed under IC 22-4-17-2(b) or IC 22-4-17-2(e); and

(4) the time of processing of each claim from an insured worker included in the number determined under subdivision (3), from date of application to date of payment by the department.

(b) The department shall:

(1) prepare a report of the summary statistical data derived under subsection (a), which shall include the desired standard of processing time to be achieved for payment of claims set by the United States Department of Labor; and

(2) provide a copy of the summary statistical data to the legislative council by the last day of the month following the calendar quarter.

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6. The report shall also be available to the public under IC 22-4-19-6(d)(1).

SECTION 6. IC 22-4-19-6, AS AMENDED BY P.L.4-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The commissioner, the review board, or an administrative law judge may require from any employing

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unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The commissioner may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The commissioner may release the following information:

(1) Summary statistical data may be released to the public, **including summary statistical data derived under IC 22-4-18-4.3.**

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the

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unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The commissioner may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation or the budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence is confidential. This information shall not be disclosed to the employer or any other person. Disclosure is subject to the following restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter; commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

SECTION 7. IC 22-4-14-4 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 8. **An emergency is declared for this act.**

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